

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

GERALD A. KELLOGG,)
Plaintiff,) 8:07CV70
vs.) ORDER
NIKE, INC. et al.,)
Defendant.)

This matter comes before the court on the defendants' Emergency Motion For Protective Order On Deposition Notices of (1) Julianne Davis (2) Carolyn Gutstick, (3) Katie Maksym, and (4) Defendants, Pursuant to Rule 30(b)(6) (Filing No. 68). The defendants filed a brief in support of its motion (Filing No. 69).

On September 19, 2007, the plaintiffs filed a motion to compel, an index of evidence, a brief in support of the motion to compel, and an amended motion to compel (Filing Nos. 62-65). In the brief in support of the motion to compel, the plaintiff requested an expedited hearing to compel the defendants to produce certain discovery requests material to depositions scheduled September 24, 2007, in Portland, Oregon. On September 20, 2007, the court issued an order denying the plaintiff's motion for an expedited hearing in light of the belated motion to compel and advised the parties that if the plaintiff's motion to compel is subsequently granted, in whole or in part, and the production of such materials would have been material to the 30(b)(6) deposition scheduled for September 24, 2007, in Portland, Oregon, the court may impose sanctions to include the retaking of the deposition with costs, including attorney's fees, being assessed (See Filing No. 67).

On September 20, 2007, the defendants filed the current motion. In its motion, the defendants request a protective order denying the plaintiff's depositions of Julianne Davis, Katie Makysm, and Carolyn Gutsick. The defendants further request an order protecting the defendant from producing witnesses pursuant to Topics 9, 11, 12, and 16 of plaintiff's Amended Rule 30(b)(6) deposition notices [Filing Nos. 58-61] for depositions scheduled on September 24, 2007, in Portland, Oregon. The defendants request that the court either

enter an order suspending this discovery until the issue is fully briefed by the defendants and a ruling is provided by the court or hear the defendants on an expedited basis to resolve any discovery issues before the depositions scheduled for September 24, 2007 in Portland, Oregon.

On September 21, 2007, the court held an expedited hearing on the defendants' motion. The parties agreed a portion of the 30(b)(6) topics would be discussed on the September 24, 2007 deposition date, but the parties would have to return again to Portland to conclude the remainder of the 30(b)(6) topics and to take the deposition of Jon Kanzo Taguchi.

The court will grant the defendants' motion for protective order to the extent that the parties can proceed with the 30(b)(6) deposition providing the parties agree to exclude discovery in areas covered in plaintiff's motion to compel [Filing Nos. 62, 65] and defendants' protective order [Filing No. 68]. After the court rules on the plaintiff's motion to compel [Filing Nos. 62, 65] and the defendants' protective order [Filing No. 68], the parties may reschedule depositions, if necessary, and continue with the 30(b)(6) deposition as previously planned. Additionally, in the event the court rules in the plaintiff's favor on the motion to compel, the plaintiffs shall include in their reply the extent of sanctions that should be imposed for the defendants' lateness in producing said documents and the filing of the protective order. The defendants shall have until **October 3, 2007** to prepare any additional briefing on its protective order and respond to the plaintiff's motion to compel. The plaintiff has until **October 9, 2007** to respond to the defendants' motion to protective order. Both sides will have until **October 15, 2007** to reply to the motion to compel and the motion for protective order.

IT IS SO ORDERED.

Dated this 24th day of September, 2007.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge